

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application Of

Susan Lynn Suehr et al.

Patent No. 5,670,234

Granted: September 23, 1997

For: TRICOT NONWOVEN FABRIC

PATENT

Atty. Docket No. CHI-0860



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REISSUE DECLARATION AND POWER OF ATTORNEY

Box REISSUE  
Assistant Commissioner For Patents  
Washington, D.C. 20231

Sir:

As a below-named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name;

I declare further that I believe I am an original, first, and joint inventor of the subject matter which is described and claimed in Letters Patent No. 5,670,234 granted on September 23, 1997 and in the reissue application for which invention I solicit a reissue patent.

I declare further that the subject matter of claims 1-7 of said reissue application was invented before I filed my original application for such invention on September 13, 1993 (as U.S. Serial No. 131,191, which was abandoned in favor of continuation U.S. patent application Serial No. 362,322, filed December 22, 1994, now U.S. Letters Patent No. 5,670,234); that I do not believe that the same was ever known or used in the United States before my invention thereof, or patented or described in any printed publication in any country before my invention thereof, or

more than one year before the date of my original application, or in public use or on sale in the United States more than one year before the date of my original application; that said invention has not been patented or caused to be patented, nor has it been the subject of an inventor's certificate in any foreign country before the date of my said original application or an application filed by me or my legal representatives or assigns more than twelve months prior to my said original application in the United States, and has not been abandoned.

**ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR  
37 CFR §1.56, 1.63 AND 1.175**

I hereby state that I have reviewed and understand the contents of the above-identified reissue application specification, including the claims.

I acknowledge the duty to disclose information known to me which is material to the examination of this reissue application in accordance with Title 37, Code of Federal Regulations §1.56.

**STATEMENT OF INOPERATIVENESS OR INVALIDITY  
OF ORIGINAL PATENT  
37 CFR §1.175**

I believe the original patent may be partly inoperative or invalid by reason of the patentees claiming more or less than they had the right to claim in the patent, because of the following two enumerated errors (1) and (2), without any deceptive intent on my part:

(1) The aforesaid Letters Patent does not contain a claim with the broader scope of claim 6 as newly presented in this reissue application, which claim 6 is identical with the Letters Patent claim 1 except for the omission of the claim 1 last clause ", said fabric having a drape index in all directions of the fabric of at least about 80 degrees".

(2) The aforesaid Letters Patent does not contain a claim with the broader scope of claim 7 as newly presented in this reissue application, which claim 7 is identical with the Letters Patent claim 5 except for the omission of the claim 5 last clause ", said fabric having a drape index in all directions of the fabric of at least about 80".

The above-identified two errors arose from an error in conduct of not recognizing that the last clause of the Letters Patent claims 1 and 5 relating to the 80 degree drape angle is a needless limitation in view of the prior art, and such error in conduct was made without deceptive intent.

When I read and reviewed the claims of my original application Serial No. 131,191, the parent of the application Serial No. 362,322 that resulted in the original Letters Patent, I gave all reasonable care, study, and thought to the preparation of the original application Serial No. 131,191 and to the prosecution thereof and of the continuation application Serial No. 362,322 within my ability to comprehend the claims. I did not appreciate that the claim language originally employed setting forth a minimum drape index value was an unnecessary limitation in view of the prior art

until later pointed out by one of the attorneys of record in this reissue patent application.

The above-identified two errors were made without any fraudulent or deceptive intention by me, or by the prosecuting attorneys in preparing the prior original application for my review, and I failed to notice and correct the errors during my review of the patent application prior to execution and thereafter during prosecution of the application.

The above-identified error (1) is to be corrected by including in the reissue application new claim 6 which is identical with claim 1 of the Letters Patent except for the omission of the last clause of claim 1 relating to the drape index.

The above-identified error (2) is to be corrected by including in the reissue application new claim 7 which is identical with claim 5 of the Letters Patent except for the omission of the last clause of claim 5 relating to the drape index.

THEREFORE, I ask for this reissue in good faith and for the purpose of making it even more clear that my invention is properly and adequately protected.

**POWER OF ATTORNEY**  
**37 CFR §1.34**

I appoint the following as my attorneys or agents with full power of substitution to prosecute the attached reissue application and transact all business in the United States Patent and Trademark Office connected therewith:

Application to Reissue  
Patent No. 5,670,234 - - - 5

Audley A. Ciamporzero, Jr. (Reg. No. 26,051), Bernard F. Plantz (Reg. No. 32,091), James P. Barr (Reg. No. 32,882), Joel A. Rothfus, (Reg. No. 33,277), Sharon H. Hegedus (Reg. No. 33,058), John P. Milnamow (Reg. No. 20,635), Paul M. Odell (Reg. No. 28,332), and Stephen D. Geimer (Reg. No. 28,846)

**CORRESPONDENCE ADDRESS, TELEPHONE, AND FACSIMILE**  
**37 CFR §1.31 AND 1.33**

Correspondence in connection with the attached reissue application should be addressed to:

Audley A. Ciamporzero, Jr., Esq.  
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Johnson & Johnson  
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**CERTIFICATION**  
**37 CFR §1.68**

I hereby certify that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Application to Reissue

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Full Name of First Joint Inventor Susan Lynn Suehr

Inventor's Signature Susan Lynn Suehr

Date 9/30/99 Country of Citizenship USA

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Full Name of Second Joint Inventor William F. Kelly

Inventor's Signature William F. Kelly

Date Oct 5, 1999 Country of Citizenship USA

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Full Name of Third Joint Inventor Charles Shimalla

Inventor's Signature Charles Shimalla

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Patent No. 5,670,234 - - - 7

Full Name of Fourth Joint Inventor Frank J. Flesch

Inventor's Signature



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Full Name of Fifth Joint Inventor James E. Knox

Inventor's Signature

Date

Country of Citizenship

Residence

Post Office Address

Application to Reissue

Patent No. 5,670,234 - - - - 7

Full Name of Fourth Joint Inventor Frank J. Flesch

Inventor's Signature \_\_\_\_\_

Date \_\_\_\_\_ Country of Citizenship \_\_\_\_\_

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Full Name of Fifth Joint Inventor James E. Knox

Inventor's Signature James E. Knox

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DOCKET NO. CHI-0860  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Susan L. Suehr et al.

Serial No.: 09/401,576

Art Unit: 1772

Filed : September 22, 1999

Examiner:

For : Tricot Nonwoven Fabric

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*Handwritten initials*



I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Missing Parts, Assistant Commissioner for Patents, Washington, DC 20231 on

December 21, 1999

(Date of Deposit)

Sharon H. Hegedus

(Name of applicant, assignee, or Registered Representative)

(Signature)

December 21, 1999

(Date of Signature)

BOX MISSING PARTS  
Assistant Commissioner for Patents  
Washington, D.C. 20231

SUBMISSION OF COMBINED DECLARATION AND POWER OF ATTORNEY

Dear Sir:

Pursuant to Rule 53(f) and Rule 54, please find enclosed a Combined Declaration and Power of Attorney for the application of William A. James et al. entitled Tricot Nonwoven Fabric attorney Docket No. CHI-0860, to complete, pursuant to Rule 51, this application filed on September 22, 1999 by Express Mail pursuant to Rule 10. As required, a copy of the Notice to File Missing Parts of Application is also attached.

Please charge Johnson & Johnson Deposit Account No. 10-0750/CHI-0860/SHH in the amounts of \$130.00 for submission of the Declaration pursuant to Section 1.16(e). The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 10-0750/CHI-0860/SHH. This sheet is submitted in triplicate.

Respectfully submitted,

*Handwritten signature of Sharon H. Hegedus*

Sharon H. Hegedus  
Reg. No. 33,058  
Attorney for Applicant(s)

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